

## TITLE VII. GENERAL PROVISIONS

### FEDERAL RULES OF APPELLATE PROCEDURE

#### Rule 25. Filing and Service

##### (a) Filing.

- (1) **Filing with the Clerk.** A paper required or permitted to be filed in a court of appeals must be filed with the clerk.
- (2) **Filing: Method and Timeliness.**
  - (A) **In general.** Filing may be accomplished by mail addressed to the clerk, but filing is not timely unless the clerk receives the papers within the time fixed for filing.
  - (B) **A brief or appendix.** A brief or appendix is timely filed, however, if on or before the last day for filing, it is:
    - (i) mailed to the clerk by First-Class Mail, or other class of mail that is at least as expeditious, postage prepaid; or
    - (ii) dispatched to a third-party commercial carrier for delivery to the clerk within 3 calendar days.
  - (C) **Inmate filing.** A paper filed by an inmate confined in an institution is timely if deposited in the institution's internal mailing system on or before the last day for filing. If an institution has a system designed for legal mail, the inmate must use that system to receive the benefit of this rule. Timely filing may be shown by a declaration in compliance with 28 U.S.C. § 1746 or by a notarized statement, either of which must set forth the date of deposit and state that first-class postage has been prepaid.
  - (D) **Electronic filing.** A court of appeals may by local rule permit papers to be filed, signed, or verified by electronic means that are consistent with technical standards, if any, that the Judicial Conference of the United States establishes. A paper filed by electronic means in compliance with a local rule constitutes a written paper for the purpose of applying these rules.
- (3) **Filing a Motion with a Judge.** If a motion requests relief that may be granted by a single judge, the judge may permit the motion to be filed with the judge; the judge must note the filing date on the motion and give it to the clerk.

### FEDERAL CIRCUIT RULE

#### Rule 25. Filing and Service

- (a) **Proof of Service.** The proof of service must contain the mailing address of each person served.
- (b) **Facsimile Filing and Service.**
  - (1) A motion, response to a motion, reply to a response or letter may be filed by facsimile transmission, if the certificate of service by facsimile transmission states that a copy has been served on all parties by facsimile transmission and that the appropriate number of copies of the motion, response, reply, or letter have been mailed or shipped for delivery to the clerk and the parties on the next business day,
  - (2) Facsimile transmission of a motion, response, or reply between the parties is considered personal service.
  - (3) No document other than a motion, response to a motion, reply to a response, or letter may be filed or served by facsimile transmission.

## FEDERAL RULES OF APPELLATE PROCEDURE

## FEDERAL CIRCUIT RULE

- (4) **Clerk's Refusal of Documents.** The clerk must not refuse to accept for filing any paper presented for that purpose solely because it is not presented in proper form as required by these rules or by any local rule or practice.
- (b) **Service of All Papers Required.** Unless a rule requires service by the clerk, a party must, at or before the time of filing a paper, serve a copy on the other parties to the appeal or review. Service on a party represented by counsel must be made on the party's counsel.
- (c) **Manner of Service.** Service may be personal, by mail, or by third-party commercial carrier for delivery within 3 calendar days. When reasonable considering such factors as the immediacy of the relief sought, distance, and cost, service on a party must be by a manner at least as expeditious as the manner used to file the paper with the court. Personal service includes delivery of the copy to a responsible person at the office of counsel. Service by mail or by commercial carrier is complete on mailing or delivery to the carrier.
- (d) **Proof of Service.**
- (1) A paper presented for filing must contain either of the following:
    - (A) an acknowledgment of service by the person served; or
    - (B) proof of service consisting of a statement by the person who made service certifying:
      - (i) the date and manner of service;
      - (ii) the names of the persons served; and
      - (iii) their mailing addresses or the addresses of the places of delivery.
  - (2) When a brief or appendix is filed by mailing or dispatch in accordance with Rule 25(a)(2)(B), the proof of service must also state the date and manner by which the document was mailed or dispatched to the clerk.
  - (3) Proof of service may appear on or be affixed to the papers filed.
- (e) **Number of Copies.** When these rules require the filing or furnishing of a number of copies, a court may require a different number by local rule or by order in a particular case.

## ***Practice Notes***

**Location of Clerk's Office; Hours of Operation; Night Box; Commercial Delivery Service.** The clerk's office is in room 401 of the National Courts Building, 717 Madison Place NW, Washington, DC 20439, and is open from 9:00 a.m. to 5:00 p.m. on workdays. After the office closes on workdays, papers may be deposited until midnight in a night box at the garage entrance on H Street NW, between 15th Street and Madison Place.

**Clerk's Mailing Address.** Address mail as follows:

**Clerk  
U.S. Court of Appeals for the Federal Circuit  
717 Madison Place NW  
Washington, DC 20439**

The clerk will not pay postage due.

**Clerk's Facsimile Number.** Send documents that Federal Circuit Rule 25 permits to be sent by facsimile to the clerk at: (202) 633-9623.

**Proof of Service.** Each brief, petition, motion, response, or reply must contain proof of service. Only the original filed with the court must be signed. A copy of the unsigned proof of service must be attached to any copies.

**Expedited Service by Counsel; Overnight Delivery Services.** Counsel may wish to agree to serve each other by express mail or other expedited methods. Expedited service aids the court and counsel by reducing the need for extensions. Certified mail is not considered expedited service.

**Comparability of Filing and Service Methods.** Counsel should accomplish filing in the court and service on the parties by comparable methods. This avoids having opposing counsel receiving papers after the court receives the papers.

**Return Copy Marked Received.** When a brief or other paper presented for filing includes an extra copy, the clerk will mark it received and return it on request. If the filing is by mail or if the night box is used, a self-addressed, postage-paid (first class) return envelope must accompany the request. Express mail or overnight delivery service is not appropriate for this purpose.

**Filing Rejected by the Clerk.** The clerk may reject material submitted for filing that does not substantially conform with the Federal Rules of Appellate Procedure and the Federal Circuit Rules. The clerk will issue a rejection letter advising of the nature of the nonconformity and guidelines for resubmission. Opposing counsel will be notified of the rejection only if the time for responding appears to require extension to await service of the corrected material; otherwise a response should be made based on the material originally served.